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**TERMINAL DISCLAIMER UNDER 37 CFR § 1.321**

Applicants : Mohamed K. Diab et al.  
App. No : 10/721,607  
Filed : November 25, 2003  
For : PULSE OXIMETER PROBE-OFF  
DETECTOR  
Examiner : Eric F. Winakur  
Art Unit : 3768

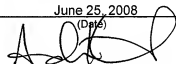
Confirmation No.: 5622

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June 25, 2008

(Date)

  
Andrew I. Kimmel, Reg. No. 58,855

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

***Disclaimer by Assignee***

Assignee, Masimo Corporation ("Assignee"), hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,360,114, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that such patent so granted on the above-identified application and U.S. Patent No. 6,360,114 are co-owned. This agreement extends to any patent granted on the above-identified application and shall be binding on Assignee, its successors, or assigns.

Assignee does not disclaim any terminal part of any patent granted on the above-referenced application prior to the earlier of the expiration date of the full statutory term of U.S. Patent No. 6,360,114, and that of any patent issuing on the above-identified application in the event that either one later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims canceled by a reexamination

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certificate, or is otherwise terminated prior to expiration of its full statutory term, except for the separation of legal title stated above.

***Right of Assignee and Ownership***

In accordance with 37 C.F.R. § 3.73(b), Assignee represents that it is the owner of one hundred percent (100%) percent interest in the above-identified application and co-owned, Patent No. 6,360,114, all by virtue of an assignment recorded at Reel No. 011040, Frame No. 0815 by the Assignment Branch of the Patent and Trademark Office. The Assignee represents that, to the best of Assignee's knowledge and belief, title is in the Assignee seeking to take action.

***Empowerment of Attorney***

Pursuant to 37 C.F.R. 1.321(a) the undersigned attorney of record is empowered to act on behalf of the Assignee, by virtue of a Power of Attorney.

This Terminal Disclaimer is accompanied by the \$130 fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR LLP



Date: June 25, 2008

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